

# 2020 Triennial Review of Idaho Water Quality Standards



State of Idaho  
Department of Environmental Quality  
November 2020



**Prepared by**  
Michelle Dale  
Idaho Department of Environmental Quality  
Water Quality Division  
1410 N Hilton Street  
Boise, Idaho 83706



*Printed on recycled paper, DEQ November 2020, PID 0903, CA code 82136. Costs associated with this publication are available from the State of Idaho Department of Environmental Quality in accordance with Section 60-202, Idaho Code.*

## Table of Contents

1	Background.....	1
2	Public Involvement.....	1
2.1	Public Workshops.....	1
2.1.1	Issues Identified by DEQ.....	2
2.1.2	Summary of Workshop Comments Received.....	3
2.1	Public Comment to Draft Report.....	3
3	Water Quality Standards Priorities .....	3
3.1	High Priority.....	3
3.2	Medium Priority .....	4
3.3	Low Priority.....	4
4	Review of the Blackbird UAA .....	4
	Appendix A. May 17, 2020 Public Workshop Attendee List.....	5
	Appendix B. Summary of Workshop Comments Received .....	7
	Appendix C. Summary of Final Comments Received.....	15

## List of Tables

Table 1. Summary of water quality standards issue papers published by DEQ. ....	2
---	---

# 1 Background

The goal of the 2020 triennial review was to meet Clean Water Act (CWA) requirements by engaging stakeholders and identifying priorities for water quality standards (WQS) rulemaking and subprogram development for the next 3+ years.

Section 303 of the CWA requires states to modify and improve their water quality standards (WQS) at least once every three years. Under this triennial review process, states are to review, modify, and adopt applicable WQS, taking into consideration public concerns, US Environmental Protection Agency (EPA) guidance, and new scientific and technical information.

The CWA requires states to adopt EPA's recommended criteria or develop their own and routinely review and update WQS to ensure consistency with the act's requirements. Specifically, §303( c)(1) states the "...State shall from time to time (but at least once each three year period...) hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards." This public review period is referred to as the triennial review.

In 2015, EPA revised federal water quality standards regulations in 40 CFR 131.20 (State review and revision of water quality standards) which declares: "The State shall also re-examine any waterbody segment with water quality standards that do not include the uses specified in section 101(a)(2) of the Act every 3 years to determine if any new information has become available. If such new information indicates that the uses specified in section 101(a)(2) of the Act are attainable, the State shall revise its standards accordingly." Additionally it says, "... if a State does not adopt new or revised criteria for parameters for which EPA has published new or updated CWA section 304(a) criteria recommendations, then the State shall provide an explanation when it submits the results of its triennial review. In compliance with the 2015 revisions, the last review of Blackbird Creek UAA, which removed beneficial uses on Blackbird Creek, is discussed in Section 4 of this document.

## 2 Public Involvement

DEQ provided opportunities for public participation by publishing seven water quality standards issue papers for public review hosting one virtual workshop.

### 2.1 Public Workshops

DEQ hosted a public workshop to communicate triennial review requirements, propose issues for prioritization, and solicit feedback from stakeholders. The information presented at the meeting is available at <https://www2.deq.idaho.gov/admin/LEIA/index.html?view=folder&id=160>.

The public workshop was held on May 19, 2020 via Zoom. Most discussion at this meeting was focused on clarifications regarding salmonid spawning (SS) use designations and Jacks Creek aquatic life beneficial use designation. Participants also expressed an interest in knowing more about a performance-based approach for temperature criteria.

The list of attendees can be found in Appendix A.

### 2.1.1 Issues Identified by DEQ

DEQ identified seven water quality standards issues and developed issue papers and workshop presentations discussing these issues. Issue papers are available at <https://www2.deq.idaho.gov/admin/LEIA/index.html?view=folder&id=160>.

A summary of each issue paper is provided in Table 1.

**Table 1. Summary of water quality standards issue papers published by DEQ.**

Subject	Summary of Issue Paper
#1. EPA §304(a) Recommended Criteria—Microcystins and Cylindrospermopsin	EPA has issued new recommended aquatic life criteria for these toxics. In 2016, EPA developed a risk assessment of the cyanotoxins microcystins and cylindrospermopsin. Idaho will review Recommended Human Health Recreational Ambient Water Quality Criteria or Swimming Advisories for Microcystins and Cylindrospermopsin.
#2. Comparison of Current Idaho Aquatic Life Criteria for Ammonia and EPA §304(a) Recommended Criteria	DEQ will review current surface water quality ammonia criteria for aquatic life use designations (IDAPA 58.01.02.250), in comparison with updated EPA §304(a) ammonia criteria recommendations from 2013.
#3. Salmonid Spawning (SS) Use Designation	Idaho is considering designating SS in waters where it is an existing use. As a potential test case DEQ will identify a mountainous watershed with temperature data and biological (fish) data showing that a stream is used by salmonid species for spawning or rearing of juvenile fishes. The streams would be mapped using the National Hydrological Dataset with the sampling locations with the sampling locations denoting the data type.
#4. Data and Information Needs Necessary for the state of Idaho to Consider Adoption of EPA 304(a) Aquatic Life Criteria for Mercury	EPA has produced a new §304(a) recommendation for Aquatic Life Use Designations and mercury (Hg) that DEQ has not formally considered. As such, Idaho will review Surface Water Quality Criteria for Aquatic Life Use Designations (IDAPA 58.01.02.250) in regards to Hg.
#5. Lower Snake – Asotin Subbasin (HUC 17060101) Salmonid Spawning Use Designation	In accordance with the National Oceanic and Atmospheric Administration (NOAA) Biological Opinion (NOAA 2019), DEQ is reviewing the available data and consider designating salmonid spawning in the Lower Snake – Asotin subbasin, HUC 17060103, through rulemaking.
#6. Jacks Creek Aquatic Life Beneficial Use Designation	In accordance with the Clean Water Act, DEQ wishes to designate the existing or highest attainable aquatic life beneficial use for Jacks Creek through the Jacks Creek valley.
#7. Performance Based Approach for Temperature Criteria	Nearly all standards are built around “technology-based” indicators, which recommend practices that are assumed to lead to sustainable outcomes. In recent years there has been an interest in expanding the use of performance standards in a

	variety of areas including health, safety, and environmental regulation. This paper examines a performance-based approach for temperature criteria, and the advantages and disadvantages of adopting such a method into Idaho code.
--	---

Other issues identified during the triennial review process that were not captured in an issue paper include:

- A letter from ICL requesting the development of water quality standards for cobalt and Per- and polyfluoroalkyl substances (PFAS).
- Designating sustenance fishing as a beneficial use for appropriate segments of surface water in Idaho.
- Determining the presence or absence of Unionoida mussels to decide when/if site-specific performance based ammonia criteria should be developed.

### 2.1.2 Summary of Workshop Comments Received

DEQ solicited written comments to materials presented at the workshop, published issue papers, and other water quality standards issues. The written comment period deadline was June 30, 2020. DEQ received comment letters from ten submitters. The complete letters are available at <https://www2.deq.idaho.gov/admin/LEIA/index.html?view=folder&id=160> and summarized in Appendix B.

## 2.1 Public Comment to Draft Report

In addition to the public workshop, DEQ also solicited written comments to a draft triennial review report. The draft report was posted to DEQ's web site on October 27, 2020. The written comment period deadline was November 30, 2017. DEQ received five comment letters. The complete comment letters are available at <https://www2.deq.idaho.gov/admin/LEIA/index.html?view=folder&id=160> and summarized in Appendix C.

## 3 Water Quality Standards Priorities

Based on comments received, DEQ proposes the following priorities for updates to Idaho Water Quality Standards.

### 3.1 High Priority

DEQ intends to address the following high-priority items in 2021:

- Initiate rulemaking to designate appropriate aquatic life uses for Jacks Creek in the Bruneau subbasin.
- Initiate rulemaking for SS use designation for Lower Snake–Asotin subbasin and central mountains.
- Initiate rulemaking to consider 304(a) recommended criteria for ammonia.

### **3.2 Medium Priority**

DEQ intends to address the following medium-priority items in 2022:

- Initiate rulemaking to consider 304(a) recommended criteria for microcystins and cylindrospermopsin, and dissolved oxygen
- Begin looking at the process of performance-based temperature and explore the path forward.

### **3.3 Low Priority**

The following issues are considered low priority and will not be addressed until 2023 or beyond:

- Updating mercury aquatic life criteria

## **4 Review of the Blackbird UAA**

In accordance with the 2015 revisions made to 40 CFR 131.20, DEQ is required to re-examine any waterbody segment with water quality standards that do not include the uses specified in section 101(a)(2) of the CWA every 3 years to determine if any new information has become available. A significant amount of remediation has occurred in the Blackbird Creek watershed in an effort to reduce copper and cobalt concentrations and loading to Blackbird Creek. The last review of the UAA was conducted in 2015, and removed beneficial uses for Blackbird and Bucktail Creeks because it was determined that human-caused conditions or sources of pollution prevent the attainment of the use; and cannot be remedied or would cause more environmental damage to correct than to leave in place. To date, DEQ has no new information or data that indicates the UAA uses for Bucktail Creek or Blackbird Creek has changed since the last review. However, DEQ anticipates receiving additional data and finalized reports in 2021, which will outline in-depth biologic improvement and copper reduction in surface waters for Bucktail Creek.

## Appendix A. May 17, 2020 Public Workshop Attendee List

Zoom via DEQ State Office, Boise, Idaho

Name	Affiliation
Loren Franklin	KC Harvey Environmental
John Loffredo	Nez Perce Tribe
Joel Clark	IDL
Colton Finch	IDL
Tom Bassista	IDFG
Merritt Horsmon	IDFG
Norman Semanko	Parsons Behle & Latimer
Mike Anderson	City of Coeur d'Alene
Ashley Newbry	Caldwell Engineering
Johnna Sandow	NOAA
Scott Hauser	Upper Snake River Tribes Foundation
Alexis Baker	Upper Snake River Tribes Foundation
Scott Pugrud	IPC
Ralph Meyer	IPC
Hannah Sanger	City of Pocatello
Liz Hatter	Veritas Advisors
Laurelei McVey	City of Meridian
Bob Naerebout	Idaho Dairymen's Association
Doug Durbin	Brown and Caldwell
Johanna Bell	AIC
Austin Walkins	ICL
Reese Hodges	Idaho Rivers United
Stephen Pfeiffer	Idaho Rivers United
Lynn Tominaga	IRWA
Brenda Tominaga	IRWA
Paul Arrington	Idaho Water Users Association
Lisa Macchio	EPA Region 10
Cyndi Grafe	EPA Region 10
Mary Anne Nelson	DEQ
Jason Pappani	DEQ
Ian Wigger	DEQ
Michelle Dale	DEQ
Loren Moore	DEQ

Chantilly Higbee	DEQ
Chase Cusack	DEQ

---

## **Appendix B. Summary of Workshop Comments Received**

2020 Triennial Review Response to Comments Received:

Commenter 1 – Ronald Harriman (private citizen)

Commenter 2 – Idaho Conservation League (ICL)

Commenter 3 – Idaho Power Company (IPC)

Commenter 4 – Association of Idaho Cities (AIC)

Commenter 5 – Idaho Department of Fish and Game (IDFG)

Commenter 6 – Idaho Water Users Association (IWUA)

Commenter 7 – Nez Perce Tribe

Commenter 8 – Treasure Valley Water Users Association (TVWUA)

Commenter 9 – Upper Snake River Tribes Foundation (USRTF)

Commenter 10 – National Marine Fisheries Service (NMFS)

Comment	Rule Section / Subject Matter	Commenter	Comment Summary	Response
1.	SS Use Designation for Lower Snake– Asotin subbasin	1.	Mr. Harriman suggests that DEQ, rather than applying a standard that could not have been developed within Idaho, South of the Clearwater River, instead apply an identification for temperature standard as “Natural Environmental Condition” NEC.	Idaho water quality standards include a provision that allows for water quality to exceed numeric criteria absent human causation (i.e., naturally). This provision recognizes that water quality laws are about controlling pollution and that pollution is a human-caused alteration of water quality. IDAPA 58.0102.200.09 states, “ <i>When natural background conditions exceed any applicable water quality criteria set forth in Sections 210, 250, 251, 252, or 253, the applicable water quality criteria shall not apply; instead, there shall be no lowering of water quality from natural background conditions. Provided, however, that temperature may be increased above natural background conditions when allowed under Section 401.</i> ”  Because of the great variability in some natural characteristics and the general lack of data on natural concentrations in areas that may have been altered for a century or more, the use of a natural background provision is complicated. However, the concept of an NEC may be incorporated into a performance-based temperature standard.
2.	SS Use Designation for Lower Snake– Asotin subbasin	2., 4.	ICL supports DEQ initiating a rulemaking to designate SS for water bodies in the Lower Snake – Asotin subbasin, HUC 17060103.  AIC is taking a neutral position with respect to this proposal; and reiterates our general concerns regarding the very limited resources available to the DEQ Surface Water Bureau anticipated over these next few years.	DEQ does not intend to collect new data, but rather consider using existing datasets recording salmonid presence from 1985 to 2018 in conjunction with Geography and Timing of Salmonid Spawning in Idaho (Miller et al 2014), which identifies the location and timing of salmonid spawning in Idaho.
3.	Salmonid Spawning Use Designation	1.	Salmonid Spawning designations should be applicable only to anadromous species within the rivers to which they actually have access.	Salmonid Spawning is not meant to protect only anadromous species spawning; rather it is to protect other species in the family Salmonidae including resident species such as Rainbow Trout, Bull Trout, Cutthroat Trout, Brown Trout, etc. Salmonid Spawning applies to waters where it is an existing use, as required by Idaho Water Quality Standards and the Clean Water Act; as well as to waters where it has been considered a goal through Water Quality Standard designated use adoption.
4.	Salmonid Spawning Use Designation	2.	ICL believes that Idaho should consider designating salmonid spawning (SS) in waters where it is an existing use. In addition, DEQ should designate SS uses in all streams that have historically supported this use unless the State has completed a use attainability analysis (UAA) for this use.	A use attainability analysis is used when removing a designated use, but not when designating a water body for the first time. DEQ does not plan to develop a use attainability analysis when not required under Water Quality Standards or the Clean Water Act.
5.	Salmonid Spawning Use Designation	9.	USRT recommends that not only should Idaho designate salmonid spawning in waters where it is an existing use, but Idaho should also designate salmonid spawning use in all waters where salmonid spawning and rearing historically occurred throughout Idaho.	EPA's regulations define existing uses as “. . . those uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards.” While DEQ agrees that uses should be designated where they are existing, the level of detail and review necessary to further designate waters based on historical (i.e., pre-1975) occurrence is not currently required in Idaho Water Quality Standards and Federal Regulations. Idaho does not intend to expand use designations for SS beyond existing uses at this time.

6.	Salmonid Spawning Use Designation	5.	IDFG recommends that DEQ moves forward with a potential test case to determine if DEQ should designate salmonid spawning in a central Idaho watershed(s). IDFG wants to ensure the DEQ is using to most recent fish abundance and/or fish population data set.	DEQ will consider all available data during rulemaking.
7.	Salmonid Spawning Use Designation	3.	IPC has fall Chinook salmon redd distribution observations since 1991 in the proposed area which may be useful in DEQ's consideration. Existing data clearly show that SS designation for the Snake River in the Lower Snake – Asotin subbasin, would be appropriate. If DEQ decides to initiate a rulemaking, IPC would make its information available for DEQ's review and consideration.	Thank you for your comment. DEQ appreciates any data IPC is willing to share for the Asotin subbasin.
8.	Jacks Creek Aquatic Life Beneficial Use Designation	4., 5.	<p>AIC support the DEQ's efforts within the Jacks Creek valley, based on the understanding that much of the supporting data and analysis have been obtained. AIC encourages the DEQ to work with EPA Region 10, to seek leadership's acknowledgment of how States need more support by EPA so that the resources they expend in seeking appropriate UAAs are not wasted. This is consistent with the Idaho Legislature's Office of Performance Evaluations special report on UAAs issued in 2014.</p> <p>IDFG concurs that DEQ should complete a use attainability analysis of Jacks Creek to help identify the highest attainable aquatic beneficial use designation. We recommend that DEQ works closely with IDFG's Southwest Regional Fisheries program for any fish data or sampling needs. Please contact John Cassinelli, Regional Fisheries Manager to help assist with these efforts</p>	DEQ intends to initiate rulemaking to designate appropriate aquatic life uses for Jacks Creek in the Bruneau subbasin as a HIGH priority.
9.	Irrigation sourced water	1.	The state of Idaho should enforce the "Beneficial Use" doctrine of diverted natural water and enforce efficient use of all diverted water on the land holding the water rights, ensuring no runoff or minimal runoff into WOTUS.	Enforcement of water rights is outside the scope of the triennial review and is beyond the authority of DEQ and Idaho WQS.

10.	Microcystins and Cylindrospermopsin	2.	ICL supports DEQ adopting the EPA's §304(a) recommended criteria for microcystins and cylindrospermopsin.	DEQ intends to initiate a rulemaking to designate 304(a) recommendations for microcystins and cylindrospermopsin as a MEDIUM priority.
11.	Microcystins and Cylindrospermopsin	4.	AIC supports swimming recreation & drinking water intake advisories only; but do not support the development of criterion for CWA compliance purposes. Alternatively, AIC encourages the DEQ and our other agency partners to continue to keep abreast of emerging research to better understand the causes and effective controls, and to revisit this issue during the 2023 Triennial Review.	See above response to number 10.
12.	Microcystins and Cylindrospermopsin	5.	IDFG has no comments on whether or not DEQ should consider rulemaking to adopt numeric microcystin and cylindrospermopsin water quality criteria. IDFG has anecdotally observed that outbreaks of cyanobacteria in certain Idaho water bodies have decreased angling use. IDFG is concerned of the increase in cyanobacteria or harmful algal blooms and what impacts they may have on recreational fishing.	See above response to number 10.
13.	Metals	10.	NMFS strongly encourages DEQ to consider incorporating the hardness floor as a high priority issue for consideration during this triennial review cycle.  NMFS encourages DEQ to include the arsenic aquatic life criteria as a potential issue for inclusion in the triennial review process.	DEQ has previously considered removing the hardness floor, but does not believe that another attempt will be any more successful than previous attempts. We believe that implementation of the interim measures identified in the BiOp are sufficient. This will, along with implementation of other aspects of Idaho WQS (IDAPA 58.01.02) such as specific mixing zone requirements (58.01.02.060) and low flow design conditions to be used for development of water quality based effluent limits (58.01.02.200.03.b), provide the necessary protection of species listed under the Endangered Species Act.  EPA has not updated aquatic life criteria for arsenic since 1995. Due to the significant research and resources required, DEQ leaves the derivation of new aquatic life criteria for arsenic to EPA. When updates to EPA's 304(a) guidance are finalized, DEQ will prioritize their adoption into Idaho water quality standards.
14.	Aquatic Life Mercury Criteria	2.	Regardless of what path IDEQ chooses regarding aquatic life mercury criteria, we believe it is important to have interim mercury limits while Idaho pursues their chosen path. Per the EPA recommendations on this issue, we feel it would be appropriate to set interim acute and chronic criteria of 1.4 µg/L and 0.012 µg/L, respectively, until such time that IDEQ has demonstrated that other standards are protective of aquatic life.	It should be noted that setting interim criteria requires the same level of effort as any criteria adoption (i.e., rulemaking, adoption, submittal, and approval) DEQ currently uses the human health criterion that consists of a fish tissue-based water quality criterion of 0.3 mg/kg for mercury to determine NPDES permit limits will be followed. Idaho has adopted this criterion, and is implementing it as a 0.24 mg/kg triggering residue concentration for existing dischargers, using an uncertainty (safety factor) of 0.8 times. This fish tissue-based criterion is close to being a threshold below which adverse effects to listed fish species are unlikely, and is considered sufficient to protect listed fish and their habitats.  DEQ has identified revisions to criteria for aquatic life mercury as a LOW priority.

	Aquatic Life Mercury Criteria	3., 4., 5., 10.	<p>IPC recommends DEQ not pursue statewide aquatic life criteria based on aqueous mercury content. IPC supports DEQ developing a statewide strategy for demonstrating that human health criteria are protective of aquatic life.</p> <p>AIC supports an update to these criteria at this time, in spite of the limited resources anticipated over these next few years. AIC recommends that DEQ work with EPA and Idaho stakeholders to consider appropriate criteria.</p> <p>IDFG recommends DEQ work closely with Idaho Department of Health and Welfare for determining the best course of action for adopting EPA Aquatic Life Criteria for Mercury.</p> <p>NMFS encourages IDEQ to consider alternative approaches that were previously suggested by the EPA in their disapproval letter and that are outlined in the mercury issue paper.</p>	DEQ does not have the resources at this time to develop additional rules related to aquatic life mercury criteria, but believes application of the human health criterion for methylmercury will be protective of aquatic life in most situations. DEQ intends to initiate revisions to criteria for aquatic life mercury as a LOW priority.
15.	Aquatic Life Criteria for Ammonia	2., 5., 10.	<p>ICL supports DEQ adopting the EPA's §304(a) recommended criteria for ammonia.</p> <p>IDFG has no comments on the criteria for ammonia and will defer to DEQ to make the most informed decision to protect Idaho's aquatic life.</p> <p>NMFS encourages IDEQ to pursue updating the existing ammonia criteria with the more recent nationally-recommended 304(a) criteria during this triennial review cycle.</p>	DEQ identifies an investigation of the practicality of updating Idaho WQS to EPA 2013 recommended criteria for ammonia as a MEDIUM priority.
16.	Aquatic Life Criteria for Ammonia	4.	<p>AIC believes it would be good for the DEQ to investigate how prevalent the sensitive species are within Idaho before the DEQ pursues this update to the criteria. Furthermore, the implementation of both the existing and any revised criteria is very important.</p>	The level of detail and review requested is outside the scope of this triennial review and may be considered during negotiated rulemaking to adopt the recommended criteria. DEQ intends to initiate rulemaking to consider EPA 2013 recommended criteria for ammonia magnitudes as a MEDIUM priority.

	Temperature Performance Based Standards	2., 4., 5., 9.	<p>ICL asks that DEQ expand on the need to utilize performance-based standards for temperature, particularly given the fact that the CWA provides other alternatives for dischargers who are struggling to meet water quality criteria (e.g. - variances, site specific criteria).</p> <p>AIC is taking a neutral position with respect to this proposal; it is one of a number of approaches that can be considered to address the difficult challenges associated with thermal discharges in Idaho.</p> <p>AIC also believes that the DEQ's limited resources over these next few years should be applied to fundamental thermal discharge program requirements outlined by the CWA that apply to temperature impairment listings (hence also TMDLs) and thermal discharge permitting.</p> <p>IDFG has no comment on whether or not DEQ should prioritize development of a performance based temperature criteria. IDFG recommend analyzing one or more water bodies using the performance based approach and existing temperature criteria methodology to help better understand the advantages and disadvantages of both methods.</p> <p>USRT recommends that DEQ not prioritize development of performance-based temperature criteria. Instead of pursuing the development of performance-based standards for temperature criteria, Idaho should pursue WQS under the CWA that already exists, such as a variance or site-specific criteria.</p>	<p>DEQ is considering temperature performance-based standards as a method for setting appropriate temperature criteria that are protective of the local aquatic community and take into account natural variability. DEQ intends to explore the development of performance based temperature criteria, which will require forming a work group, and possible rulemaking, as a MEDIUM priority. DEQ anticipates that development of a performance-based temperature standard will require significant time and resources, and will likely take multiple years to complete.</p>
17.	Temperature Performance Based Standards	9.	<p>USRT recommends that DEQ not prioritize development of a performance-based temperature criteria. Instead of pursuing the development of performance-based standards for temperature criteria, Idaho should pursue WQS under the CWA that already exists, such as a variance or site-specific criteria.</p>	<p>See above response to No. 18.</p>

	Performance-based Approach for Temperature	3., 6., 8.	<p>IPC supports the development of a water quality standard that is a specific process and methodology, leading to and describing implementation of a numeric water quality criterion. If DEQ decides to initiate a rulemaking based on this triennial review, IPC will participate in the rulemaking.</p> <p>The Idaho Water Users Association (IWUA) and the Treasure Valley Water Users Association (TVWUA) support the investigation and potential development of performance-based temperature criteria. They also urge DEQ to consider other regulatory and non-regulatory alternatives available to address challenges associated with establishing, administering and attaining appropriate temperature criteria for Idaho waterbodies.</p>	See above response to number 18.
18.	Sustenance Fishing	2., 7.	<p>ICL requests that DEQ complete an issue paper dedicated to designating "sustenance fishing" as a beneficial use for appropriate segments of surface water in Idaho.</p> <p>The Nez Perce Tribe requests that DEQ complete an issue paper during the upcoming Triennial Review committed to designating "sustenance fishing" as a beneficial use to support Nez Perce treaty fishing co-extensive with the Tribe's treaty-reserved fishing right in waters within Idaho.</p>	DEQ is not drafting additional issue papers. Idaho's recreation use speaks to fishing but not any particular level of harvest. Tribal members were considered, both through inclusions in Idaho's survey and through a separate tribal fish consumption survey. Data from Idaho and tribal fish consumption surveys, coupled with Idaho's risk management decisions, provide a high level of protection to even high end consumers of fish, including tribal members. We believe Idaho criteria provide a high level of protection for all fish consumers in Idaho.
19.	Beneficial Use Designation	10.	Thank you for including the salmonid spawning use designation in the Lower Snake Asotin subbasin as a triennial review topic. NMFS encourages DEQ to identify this particular topic as a high priority for water quality standards rulemaking.	DEQ intends to initiate a rulemaking to designate salmonid spawning use designation in the Lower Snake Asotin subbasin as a HIGH priority.
20.	Cobalt and PFAS	2.	ICL requests that IDEQ write an issue paper on creating water quality standards for the toxic pollutants cobalt and Per- and polyfluoroalkyl substances (commonly collectively referred to as PFAS).	DEQ is not drafting additional issue papers for the 2020 Triennial Review; however we will keep this issue under consideration for the 2023 Triennial Review.
21.	General Comment	4.	AIC's overall recommendation is for the DEQ to carefully assess priorities to ensure first that critical environmental and health risks are being addressed.	Thank you for your comments.

---

			AIC recommends that the existing criteria, and criteria under development, have associated implementation and compliance guidance developed.	
--	--	--	--	--

## **Appendix C. Summary of Final Comments Received**

Commenter 1 – Idaho Association of Commerce & Industry (AICI)

Commenter 2 – Association of Idaho Cities (AIC)

Commenter 3 – Clearwater Paper

Commenter 4 – Idaho Conservation League (ICL)

Commenter 5 – Environmental Protection Agency (EPA)

Comment	Rule Section / Subject Matter	Commenter	Comment Summary	Response
1.	lower Snake River-Asotin Sub-basin, HUC 17060103, for salmonid spawning	1., 3.	<p>IACI indicated that they do not believe designation of the lower Snake River for salmonid spawning is warranted at this time, and that considerable work is needed to address the requirements specified in regard to a designated beneficial use and whether such changes are applicable to the entire river segment.</p> <p>Clearwater Paper does not believe designation of the lower Snake River for salmonid spawning is warranted at this time.</p>	<p>Federal Regulations 40 CFR 131.10 and IDAPA 58.01.02.100 require DEQ to designate water body uses that set goals to fully support the water body, regardless of its current condition. While DEQ recognizes the considerable work that is needed to designate beneficial uses for the Lower Snake; we also recognize the importance of addressing SS as an existing use under the CWA, and barring a compelling reason, DEQ intends to address the initiation of rulemaking for SS use designation for Lower Snake—Asotin subbasin and central mountains as HIGH priority. DEQ does not intend to collect new data, and will consider using existing salmonid presence datasets from 1985 to 2018 in conjunction with <i>Geography and Timing of Salmonid Spawning in Idaho</i> (Miller et al 2014), and any other available datasets from IPC or other entities.</p>
2.	EPA §304(a) Recommended Criteria—Microcystins and Cylindrospermopsin	2.	<p>AIC is extremely concerned about Idaho diverting limited resources in the development of these criteria. We support swimming recreation &amp; drinking water intake advisories only; but do not support the development of criterion for CWA compliance purposes.</p> <p>Alternatively, AIC encourages the DEQ and our other agency partners to continue to keep abreast of emerging research to better understand the causes and effective controls, and to revisit</p>	<p>Because EPA finalized the draft Human Health Recreational Criteria in May 2019, DEQ must consider adopting new or updated Clean Water Act §304(a) criteria recommendations as part of their triennial review as described under 40 CFR 131.50(a). Therefore, However, we acknowledge that rulemaking resources are limited. Therefore, DEQ intends to initiate a rulemaking to consider 304(a) recommendations for microcystins and cylindrospermopsin as a MEDIUM priority.</p>

			this issue during the 2023 Triennial Review.	
3.	Comparison of Current Idaho Aquatic Life Criteria for Ammonia and EPA's §304(a)	2., 4., 5.	<p>AIC recognizes that EPA's recommended criteria will significantly impact wastewater treatment affordability in Idaho. The current ammonia criteria for Idaho is known to provide aquatic life protection with associated water quality based effluent limits in a number of discharge permits in the state. AIC recommends that the DEQ apply some of the very limited resources to develop a better understanding on the presence/absence of the more sensitive species the updated 304(a) criteria is designed to protect.</p> <p>ICL believes DEQ has pushed back the ammonia rulemaking long enough and should list it as a high priority issue in the 2020 Triennial Review.</p> <p>DEQ has identified revised aquatic life criteria for ammonia as a medium priority in this triennial review; however, this was identified as a high priority in the previous (2017) triennial review.</p>	<p>DEQ agrees that ammonia is an important issue and has moved ammonia magnitudes from MEDIUM to HIGH priority, to initiate a rulemaking to consider EPA 2013 recommended criteria for ammonia magnitudes.</p> <p>DEQ will consider the need for <i>Unionidae</i> presence/absence surveys as part of any negotiated rulemaking effort.</p>

			EPA urges DEQ to adopt EPA's current ammonia criteria recommendations during the 2020 triennial review without a further delay. To ensure public transparency on DEQ's decision making, we recommend DEQ provides an explanation in the draft report regarding the delay in adopting revised ammonia criteria.	
4.	Mercury Criteria	4.	ICL recommends that DEQ increase the priority level for updating mercury aquatic life criteria.	DEQ does not intend to develop additional rules related to aquatic life mercury criteria, but believes application of the human health criterion for methylmercury is protective of aquatic life. DEQ intends to initiate revisions to criteria for aquatic life mercury as a LOW priority.
5.	Subsistence Fishing Criteria	4.	ICL is disappointed that an issue paper for subsistence fishing criteria was not prepared by DEQ as part of this Triennial Review despite substantive comments advocating for doing so by the Nez Perce Tribe and ICL. They believe that DEQ should not continue to dismiss this issue in future triennial reviews or other relevant venues.	DEQ has not drafted additional issue papers in response to comments as part of the triennial review process. Idaho's recreation use considers fishing but, not any particular level of harvest. Tribal members were considered, both through inclusions in Idaho's survey and through a separate tribal fish consumption survey. Data from Idaho and tribal fish consumption surveys, coupled with Idaho's risk management decisions, provide a high level of protection to even high end consumers of fish, including tribal members. We believe Idaho criteria provide a high level of protection for all fish consumers in Idaho.
6.	Further Research on Cobalt Standard	4.	ICL would like to reiterate to DEQ that there is a need to consider a water quality standard for cobalt.	Federal regulations require states to consider §304(a) recommendations as part of triennial review (40 CFR 131.20). To date, EPA has not developed 304(a) water quality standards for cobalt. DEQ will need EPA to provide toxicological and other scientific information before we could propose to adopt water

				quality standard for cobalt. Once such information is available DEQ will consider the issue once EPA provides recommended criteria.
7.	Language	5.	<p>In 2015, EPA revised the federal water quality standards regulations at 40 CFR 131. As part of those revisions, the following was added to the requirements at 40 CFR 131.20 regarding triennial reviews: <i>"... if a State does not adopt new or revised criteria for parameters for which EPA has published new or updated CWA section 304(a) criteria recommendations, then the State shall provide an explanation when it submits the results of its triennial review..."</i></p> <p>EPA recommends DEQ includes the additional details of the regulatory requirements regarding triennial reviews in the background section of the draft report and provides a more accurate reflection of all the regulatory requirements associated with triennial reviews.</p>	DEQ has updated the final 2020 Triennial Review Report to reflect this suggestion.
8.	Language	5.	Because Idaho has removed the 101(a)(2) "fishable" use from several waterbodies (i.e., Bucktail, Blackbird and Lower West Fork Blackbird Creeks) EPA suggests	See response 7.

			<p>DEQ also include in the background section the following longstanding requirement at 40 CFR 131.20:</p> <p><i>“The State shall also re-examine any waterbody segment with water quality standards that do not include the uses specified in section 101(a)(2) of the Act every 3 years to determine if any new information has become available. If such new information indicates that the uses specified in section 101(a)(2) of the Act are attainable, the State shall revise its standards accordingly.”</i></p>	
--	--	--	--	--